

**JOURNAL OF COMMISSION WORK SESSION**  
**November 17, 2009**

City Commission Work Session

Mayor Stebbins presiding

**CALL TO ORDER:** 6:00 p.m.

**ROLL CALL:** City Commissioners present: Dona Stebbins, Bill Bronson, John Rosenbaum and Bill Beecher. Also present were the City Manager, Assistant City Manager, Acting City Attorney, Directors of Community Development, Fiscal Services, Park and Recreation, Planning, Public Works, the Police Chief, Fire Chief and the City Clerk.

**1. TAVERN ASSOCIATION – SMOKING ORDINANCE**

John Hayes, Executive Director of the Cascade County Tavern Association, discussed telephone calls he has received and commented that this is not about the Tavern Association trying to get rid of the smoking ban.

On behalf of the Montana Coin Machine Operators Association, Ronda Wiggers asked the City Commission to repeal City Ordinance 2956 (8.7.020). She discussed the Montana Clean Indoor Air Act being fully implemented as of October 1<sup>st</sup>. After reviewing State law and the rules issued by DPHHS, the Association believes there is adequate law covering infiltration of smoke into buildings, making the 20 foot requirement of the Ordinance unnecessary. Ms. Wiggers expressed concern about what compliance with the Act has cost the hospitality industry. She stated that the goal of business owners is to keep smokers happy while not offending non-smokers. They believe the Ordinance applies an arbitrary number that doesn't always work well for every situation.

The parties discussed businesses that have installed decks or "smoke huts" for their smoking customers and possibly being in violation of the 20 foot rule.

Mr. Hayes discussed business owners setting their own policies regarding smoking outside on their properties.

Acting City Attorney Chad Parker reported that it is a complaint driven system. DPHHS enforces the Clean Indoor Air Act up to the third violation before it is turned over to the City or County Attorney to enforce the third or subsequent violation. It then becomes a criminal violation issue. He explained that the 20 foot rule has been in effect for years and most of the enforcement has been done through education. Until the Montana Clean Indoor Air Act came into effect against bars, casinos and other service organizations on October 1<sup>st</sup>, Mr. Parker had not heard any complaints about the 20 foot rule. More recently, he has received complaints from the public for the City to be stricter at enforcing the 20 foot rule. Mr. Parker discussed responsibility to protect the public's safety and welfare. He concluded that, if the Ordinance were to be repealed, what would be a reasonable distance to keep infiltration from happening. The issue would then become no enforcement.

The Commission requested additional information from Mr. Parker regarding what other jurisdictions are doing and how they are handling this issue, and then possibly setting this matter for public hearing.

**ADJOURN**

There being no further discussion, Mayor Stebbins adjourned the work session of November 17, 2009, at 6:40 p.m.